HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL No.470 of 2007

Between:

C.S.Krishnaveni

… Appellant

AND

The Government of Andhra Pradesh,
Rep by Principal Secretary of Higher Education,
Hyderabad
and four others.

… Respondents

; O R D E R :

Counsel for the petitioner : Shri Sadu Rajeswar Reddy

Dated: 11th June, 2007

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Per C.V.NAGARJUNA REDDY, J.

The petitioner in Writ Petition No.720 of 2007, a Junior Lecturer working in an aided post and who was unsuccessful in persuading the learned Single Judge to set aside her transfer orders made by the competent authority, filed this appeal under clause 15 of the Letters Patent.

The appellant was initially appointed temporarily as Junior Lecturer in Department of Civics (Telugu Medium) on 26.8.1985 in respondent No.4 - college. After the post in which she was working was admitted to grant-in-aid from 16.4.1990, the appellant's services were regularized vide G.O.Ms.No.439 Education Department dated 22.11.1994. In pursuance of a policy decision taken by the Government to re-deploy the lecturers working in grant-in-aid posts without sufficient workload due to uneconomical students strength, respondent No.2 issued proceedings in Rc.No.Spl-3/CIE/VSP/2005 dated 27.7.2005 wherein the post held by the appellant was identified as a surplus post and the appellant was transferred and posted in Government Junior College, Kotakota, Visakhapatnam district. A few months later, i.e., on 13.10.2005 on an identical ground the appellant was transferred on re-deployment "on duty basis" to Vishakhpatnam Women's Junior College, Vishakhapatnam district. The appellant was once again transferred by the proceedings dated 6.5.2006 of

respondent No.2 from the said college to Government Junior College, Sabbavaram, Visakhapatnam district. Again on 3.7.2006 respondent No.2 transferred the appellant from Government Junior College, Sabbavaram to Government Junior College, Bhimili, Vishakapatnam district. The appellant filed Writ Petition No.7201 of 2007 questioning these transfer orders and the learned Single Judge dismissed the same vide his order dated 10.4.2007. The present writ appeal is filed against the said order of the learned Single Judge.

Heard Sri Sadu Rajeshwar Reddy, learned counsel for the appellant.

The learned counsel submitted that the appellant is subjected to frequent transfers. He lamented that she was transferred on as many as four occasions within a period of less than one year. He also submitted that though she is senior to respondent No.5, a Lecturer in History in respondent No.4 - college, she was subjected to repeated transfers while retaining respondent No.5 and that this action of respondent No.2 is arbitrary and discriminatory.

We have given our serious thought to the submissions of the learned counsel for the appellant. It is legally well settled that transfer is not a condition of service but is merely an incidence of service and in the absence of a term prohibiting transfer of the employee and arbitrariness, mala fides or violation of any operative guidelines or rules, Courts' interference with transfer orders is not called for. (See **B.Varadha Rao Vs. State of Karnataka**[1], **Union of India Vs. S.L.Abbas**[2], **Public**

Services Tribunal Bar Association Vs. State of U.P.,[3], State of Rajasthan Vs. Anand Prakash Solanki[4], Pearlite Liners (Petitioner) Ltd., Vs. Manorama Sarsi[5], Union of India Vs. Janardhan Debnath[6], and Kendriya Vidyala Sangathan Vs. Damodar Prasad Pandey[7].)

The appellant has not alleged mala fides against the respondents. A reading of the orders dated 27.7.2005, 30.10.2005, 6.5.2006, 3.7.2006 indicates that transfers of the appellant were necessitated due to the fact that the posts she was holding in the respective colleges have become unviable in view of poor students strength and the transfers were effected on a re-deployment basis in pursuance of the policy decision of the Government. Therefore the transfer orders impugned in this writ appeal cannot be termed as arbitrary.

As regards the contention of the appellant that the transfer is discriminatory because respondent No.5, though junior to the appellant was retained in respondent No.4 - college while the appellant was subjected to frequent transfers, this contention, in our view has no basis. On the appellant's own showing from the affidavit filed in support of the writ petition, respondent No.5 belongs to History Department while the appellant is working in Civics Department. Since the ground on which the transfer of the appellant is made is "poor students strength" making the post unviable, she cannot contend that the 5th respondent being junior ought to have been transferred, as the latter belongs to a different

department and there cannot be any comparison between the Civics and History Departments. Though the appellant was transferred on four occasions within one year, on all these occasions, she has been transferred from one college to another within Vishakapatnam area. Viewed from this perspective, the appellant's contention that she is subjected to lot of inconvenience has no factual basis.

Further, a reading of the last of the transfer orders dated 3.7.2006 wherein the appellant has been transferred from Government Junior College, Sabbavaram to Government Junior College, Bhimili, Vishakapatnam district shows that the said transfer was made on the appellant's request. In the said proceedings, the appellant's request was mentioned under reference of the proceedings and it is further mentioned that the said transfer order was being made in consideration of the appellant's request. As the transfer from the Government Junior College, Sabbavaram, Vishakapatnam district to Government Junior College, Bhimili, Vishakapatnam district was made on the appellant's own request, she cannot make any legitimate grievance against such transfer.

In our opinion the learned Single Judge has not committed any error in declining to interfere with the appellant's transfer.

For the aforementioned reasons, the writ appeal fails and is accordingly dismissed.

C.V. NAGARJUNA REDDY, J

G.S.SINGHVI, CJ

Date: 11-06 -2007.

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[1] AIR 1986 SC 1955

[2] (1993) 4 SCC 357

[3] (2003) 4 SCC 104

[4] (2003) 7 SCC 403

[5] 2004(3) SCC 172

[6] (2004) 4 SCC 245

[7] (2004) 12 SCC 299